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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,809	02/09/2004	Manfred Ludwig	DT-6757	9678

30377 7590 02/09/2005

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EXAMINER

GRANT, ALVIN J

ART UNIT	PAPER NUMBER
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3723

DATE MAILED: 02/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/775,809

Applicant(s)

LUDWIG ET AL.

Examiner

Alvin J Grant

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 09 February 2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Objections*

1. **Claim 1** is objected to because of the following informalities:

In line 3, change "in a drive-in direction, section of the drive in tool" to read, "in a driving direction, section of the drive-in tool".

Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1-6 and 8**, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Harrison GB 704 991 A.

Harrison discloses a power drive-in tool for use in a stand-up tool, comprising a driving-in tool, a holding device arranged in front, in a driving direction, section of the drive-in tool and in which the fastening element can be automatically received and released, a guide for the fastening element associated with the drive-in tool, a feed track connecting the fastening element guide with the holding device, intermediate securing means located in the feed track and in which the fastening element is held before being fed toward the holding device, and a slide stop provided on the intermediate securing means and displaced into the feed track for blocking displacement of the fastening

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element from the intermediate securing means back into the section of feed track between the fastening element guide and the intermediate securing means; the side stop is formed by separation means; the side stop is formed by a slide; the slide is linearly displaceable; a member displaceable relative to the intermediate securing means for displacing the slide; and means for preloading the side stop in a closing position thereof in which the stop extends into the feed path; the intermediate securing means has, in a direction of the holding device, an axial stop displaceable out of the feed track (Figs. 1-5).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claim 7** is rejected under 35 U.S.C. 103(a) as being unpatentable over Harrison in view of Olvera et al. '045.

Harrison is described above. Harrison does not specifically disclose a side stop that extends pointedly in a closing direction. Harrison discloses a power tool wherein the side stop extends pointedly in a closing direction so as to prevent the fastening element from jamming the feed track. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the apparatus of Harrison to

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have a side stop that extends pointedly in a closing direction as taught by Olvera et al. so as to prevent the fastening element from jamming the feed track.

6. **Claim 9** is rejected under 35 U.S.C. 103(a) as being unpatentable over Harrison in view of Olvera et al. in view of MacDonald '950.

Harrison as modified is described above. The modified Harrison does not specifically disclose an axial stop having at least two stops displaceable out of a feed track against a biasing force. MacDonald discloses a fastening device comprising an axial stop having at least two stops displaceable out of a feed track against a biasing force so as to stabilize and enhance the security of the screw prior to it being driven into a workpiece. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the apparatus of the modified Harrison to have a fastening device comprising an axial stop having at least two stops displaceable out of a feed track against a biasing force, as taught by MacDonald, so as to stabilize and enhance the security of the screw prior to it being driven into a workpiece.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin J Grant whose telephone number is (703) 305-3315. The examiner can normally be reached on Mon-Fri 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J Hail can be reached on (703) 308-2687. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Joseph J. Hail, III  
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